

# Inverse Condemnation

A Practical Guidance® Practice Note by  
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This practice note provides an overview of inverse condemnation actions, discussing the elements of an inverse condemnation claim, defenses to an inverse condemnation action, and attorney's fees. Inverse condemnation is a legal cause of action that allows a property owner to seek compensation from a condemner when the condemner takes or damages property without acquiring the subject property through the formal process of eminent domain. In other words, a property owner may claim inverse condemnation when a condemner should have acquired property through eminent domain and payment of just compensation.

For guidance on eminent domain, see [Eminent Domain Takings](#), [Eminent Domain: Key Questions in the Condemnation Process](#), and [Eminent Domain: Key Considerations for Local Municipalities](#). For an overview of state law concerning eminent domain, see [Eminent Domain State Law Survey](#).

To compare eminent domain laws across different municipalities, see the Municipal Eminent Domain topic in the [Real Estate State Law Comparison Tool](#).

## Introduction

Federally, the doctrine of inverse condemnation is based on the Fifth Amendment of the U.S. Constitution, which requires condemners to pay just compensation for private property taken for public use. In state actions, the legal basis for bringing an inverse condemnation case will vary depending on the Fifth Amendment of the U.S. Constitution (which is applicable to the states through the Fourteenth Amendment) and each state's constitution and laws. *Chicago, B. & Q.R. Co. v. Chicago*, 166 U.S. 226, 239 (1897).

To succeed in an inverse condemnation action, the landowner must establish that a condemner has taken its property for a public use without paying just compensation.

Attorneys representing landowners and considering pursuing inverse condemnation must put themselves in the shoes of the condemner that took or damaged property and assess whether—at the time of the taking or damage—the condemner could have acquired the subject property through eminent domain. Attorneys defending against an inverse condemnation claim need only disprove one of the elements to demonstrate that eminent domain was not available to acquire the subject property.

# Elements of an Inverse Condemnation Action

Generally, the elements of an inverse condemnation action are:

- The property owner possesses a cognizable interest in the subject property
- The condemner had authority to condemn the subject property
- The condemner acted to further a public use
- The condemner's conduct amounted to a taking of the subject property, which can occur in one of two ways:
  - Physical invasion (e.g., constructing a road or utility line that crosses the subject property) –or–
  - Regulatory taking (the condemner passes regulations or takes other actions that deprive the property owner of the subject property's economic value)
- Value of the subject property (damages)

It is important to note that the second and third elements listed above vary depending on the jurisdiction in which an inverse condemnation action is brought.

For example, not all jurisdictions require that a property owner prove that the condemner had authority to condemn in an inverse condemnation action. Compare *Keene Valley Ventures, Inc. v. City of Richland*, 298 P.3d 121, 124 (Wash. App. 2013) ("The elements [for an inverse condemnation action] are (1) a taking or damaging of (2) private property, (3) for public use, (4) without just compensation being paid, and (5) by a government entity that has not instituted formal proceedings.") with *Am. Fam. Mut. Ins. Co. v. Am. Nat'l Prop. & Cas. Co.*, 370 P.3d 319, 326 (Colo. App. 2015) ("To prove an inverse condemnation claim under the Colorado Constitution, a property owner must show that (1) there has been a taking or damaging of a property interest; (2) for a public purpose; (3) without just compensation; (4) by a governmental or public entity that has the power of eminent domain, but which has refused to exercise that power.").

Further, not all jurisdictions require property owners bringing an inverse condemnation action to establish a public use. See *Wilkie v. City of Boiling Spring Lakes*, 809 S.E.2d 853, 862 (N.C. 2018) ("Although the condemning entity must establish that a proposed taking will further a public purpose before a condemnation can be authorized, we can see no reason why a reciprocal burden to establish the existence of a public purpose should be imposed upon a property owner who has been deprived of his or her

property by governmental action taken for a non-public purpose.").

These examples of exceptions are illustrative and not exhaustive. An attorney must research the relevant elements based on the jurisdiction in which the attorney practices.

## Cognizable Interest

### Does the Property Owner Possess a Cognizable Interest in the Subject Property?

There is no blanket rule regarding the types of property interests that may be subject to an inverse condemnation claim. Instead, the crux of an attorney's analysis must center on whether the property interest at issue could have been condemned by the condemner.

The Fifth Amendment to the U.S. Constitution states, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The U.S. Supreme Court has broadly interpreted the term "property," holding that it includes "the group of rights inhering the citizen's relation to the physical thing, as the right to possess, use and dispose of [the property]." *United States v. Gen. Motors Corp.*, 323 U.S. 373, 378 (1945). Further, "property" includes real property, tangible property, and intangible property. See *Maritrans Inc. v. United States*, 342 F.3d 1344, 1351 (Fed. Cir. 2003) (citing *Lucas v. S.C. Coastal Council*, 505 U.S. 1003, 1019 (1992)); *Andrus v. Allard*, 444 U.S. 51, 65 (1979); *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1003–04 (1984).

Various property interests recognized by federal courts under the Fifth Amendment include:

- Fee title (*Kohl v. United States*, 91 U.S. 367, 368 (1875))
- Easements (*United States v. Virginia Elec. & Power Co.*, 365 U.S. 624, 627 (1961))
- Leasehold interests (*First Eng. Evangelical Lutheran Church of Glendale v. Los Angeles Cnty.*, 482 U.S. 304, 318 (1987))
- Avigation easements (*United States v. Causby*, 328 U.S. 256, 261 (1946))
- Contracts (*Omnia Com. Co. v. United States*, 261 U.S. 502, 508 (1923))
- Trade secrets (*Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1003 (1984))
- State and local government property (*United States v. 50 Acres of Land*, 469 U.S. 24, 31 (1984))

- Personal property (*Warner/Elektra/Atl. Corp. v. Cnty. of DuPage, Ill.*, 771 F. Supp. 911, 914 (N.D. Ill. 1991))
- Mineral interests (*United States v. 191.07 Acres of Land*, 482 F.3d 1132, 1134 (9th Cir. 2007))
- Patents (*James v. Campbell*, 104 U.S. 356, 358 (1881))
- Liens (*Skip Kirchdorfer, Inc. v. United States*, 6 F.3d 1573, 1580 (Fed. Cir. 1993))

This above list is not exhaustive. Nonetheless, it illustrates that federal courts have interpreted the term “property” expansively in the eminent domain context. In cases against state and local governments or other condemning entities, attorneys must identify a cognizable property interest taken or damaged by the respective condemner.

If the property owner cannot assert a cognizable property interest, the property owner will fail in an inverse condemnation action.

## Authority to Condemn

### Would the Condemner Have Had Authority to Condemn the Subject Property?

The power of the federal government to take private property for public use is derived from the Fifth Amendment of the U.S. Constitution, which states, “nor shall private property be taken for public use, without just compensation.” It is essential to understand the constitutional basis for condemnation when litigating inverse condemnation cases.

In addition to the constitutional basis, various federal statutes authorize the federal government to exercise its eminent domain powers. For example, 40 U.S.C. § 3113 and 33 U.S.C. § 591 grant authority to acquire land for public buildings and improvements to navigable waters, respectively. Attorneys should research and identify the relevant federal statutes that may apply to their specific inverse condemnation case. Here is a list of some of the statutory grants of authority:

- 40 U.S.C. § 3113- **public buildings and works**. This statute authorizes the federal government to acquire land or interest in land for the construction or extension of federal public buildings, facilities, and works, including courthouses, post offices, and other federal facilities.
- 33 U.S.C. § 591- **navigable waters**. This statute allows the federal government to acquire land for the purpose of improving navigable waters, such as constructing or maintaining dams, locks, and other navigation-related infrastructure.

- 23 U.S.C. § 107- **federal-aid highways**. This statute grants the federal government the authority to acquire land for the construction, reconstruction, or improvement of federal-aid highways, which form a part of the National Highway System.
- 16 U.S.C. § 460l-9- **land acquisition for National Park System**. This statute authorizes the federal government to acquire land or interest in land for the purpose of preserving or expanding the National Park System, including national parks, monuments, historic sites, and recreation areas.
- 42 U.S.C. § 1594- **defense housing projects**. This statute allows the federal government to acquire land for the purpose of constructing and maintaining defense housing projects, including housing for military personnel and their families.
- 49 U.S.C. § 30103- **acquisition of land for airports**. This statute authorizes the federal government to acquire land for the purpose of developing, expanding, or improving public airports and related facilities.
- 42 U.S.C. § 9601- **superfund sites**. This statute, part of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), allows the federal government to acquire land or interest in land for the purpose of cleaning up hazardous waste sites or preventing the release of hazardous substances.
- 10 U.S.C. § 2663- **military installations**. This statute authorizes the federal government to acquire land or interest in land for the purpose of establishing, expanding, or maintaining military installations, such as bases, training facilities, and other defense-related infrastructure.
- 16 U.S.C. § 791- **Federal Power Act**. This statute allows the federal government to acquire land for the purpose of constructing, maintaining, and operating hydroelectric power projects, dams, and other facilities related to the generation and distribution of electric power.

The federal government’s authority to condemn can be delegated to various agencies or officials—including private entities. See *PennEast Pipeline Co., LLC v. New Jersey*, 141 S. Ct. 2244, 2251 (2021). Attorneys should research the specific federal statutes and regulations governing the delegation of condemnation authority in their case.

Similarly, state governments derive their power of eminent domain from their state constitution and relevant statutes. Most state constitutions contain similar provisions to that of the Fifth Amendment of the U.S. Constitution.

When reviewing whether a state, local government, or other entity has the authority to condemn, attorneys should examine the following:

- **State constitution.** Review the relevant provisions in the state constitution that address the government's eminent domain powers. These provisions may outline the scope and limits of the state's and other entities' authority to condemn property.
- **State statutes.** Research state statutes that govern eminent domain, including general statutes authorizing condemnation and specific statutes that grant condemnation authority to various state agencies, local governments, and other entities. These statutes may contain provisions on public use, necessity, and the delegation of condemnation authority. These statutes may also place limitations on the particular delegated authority to condemn.
- **Local ordinances and charters.** For local governments, examine local ordinances and charters that address eminent domain powers. These ordinances may provide additional details on the local government's authority to condemn property, including the specific public purposes for which property may be taken.
- **State and local regulations.** Investigate any state or local regulations that pertain to eminent domain or the specific public project for which the property is being condemned. These regulations may provide further clarification on the condemnation process and the government's authority.
- **Case law.** Review relevant state and federal case law to understand how courts have interpreted the state's eminent domain powers and the limits imposed on the government's authority to condemn property.

By reviewing these materials and sources, attorneys can build a comprehensive understanding of the state or local government's authority to condemn property and develop a strong case for their clients in inverse condemnation proceedings. As is true with federal agencies, state and local governments may be able to delegate authority to private entities. Accordingly, attorneys handling a potential inverse condemnation case against a private party must identify that entity's source of authority to condemn.

## Public Use

### Did the Condemnor Act in Furtherance of a Public Use?

One of the key requirements for a successful inverse condemnation claim is that there is a public purpose.

The public purpose requirement is the principle that a condemnor can only take private property for a legitimate public purpose. This principle is rooted in the Fifth Amendment to the U.S. Constitution which prohibits private property from being taken for public use without just compensation.

The U.S. Supreme Court has long held that public use under the Fifth Amendment of the U.S. Constitution should be broadly defined. When considering whether a redevelopment plan furthered a public purpose, the Court held:

We do not sit to determine whether a particular housing project is or is not desirable. The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. In the present case, the Congress and its authorized agencies have made determinations that take into account a wide variety of values. It is not for us to reappraise them. If those who govern the District of Columbia decide that the Nation's Capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way.

*Berman v. Parker*, 348 U.S. 26, 33 (1954).

The U.S. Supreme Court built upon this principle in *Kelo v. City of New London*, 545 U.S. 469, 483 (2005), in which it held that taking private property for economic development furthered a public use. The Court relied on "public use jurisprudence" which "has wisely eschewed rigid formulas and intrusive scrutiny in favor of affording legislatures broad latitude in determining what public needs justify the use of the takings power." *Kelo*, 545 U.S. at 483.

The types of public uses that justify a condemnor's taking of private property vary depending on the specific circumstances of the case. However, common types of public uses include:

- **Public infrastructure.** Property used for highways, bridges, tunnels, and public buildings.
- **Public services.** Property used for schools, hospitals, and other public facilities that serve the community at large.
- **Promoting economic development.** Property used for urban renewal projects or other efforts to revitalize blighted areas.
- **Preserving natural resources.** Property used for parks, wildlife reserves, and other areas that protect

the environment and provide public access to natural resources.

The public use requirement also applies to state actions, but the standard for what constitutes a public use will vary depending on the state.

For example, following *Kelo*, several states revised their eminent domain laws to prohibit or severely limit taking private property for economic development. See Marc Mihaly, Turner Smith, *Kelo's Trail: A Survey of State and Federal Legislative and Judicial Activity Five Years Later*, 38 *Ecology L.Q.* 703, 708 (2011) ("Florida, South Dakota, and Michigan are examples of states that have adopted strong limitations on eminent domain power since 2005. . . . Louisiana, Minnesota and Utah are examples of states that substantially altered their eminent domain law but left devices which allow municipalities and other entities to exercise eminent domain power much like that asserted in *Kelo*. . . . States with minimal post-*Kelo* limitations include Ohio, Texas, and Washington.").

It is crucially important that attorneys research their jurisdiction's constitution, statutes, and case law to determine whether the condemnor's conduct furthered a public use.

## Conduct Amounts to a Taking

### Did the Condemnor's Conduct Amount to a Taking?

There are two primary forms of "taking" that property owners assert in an inverse condemnation action: (1) physical invasion and (2) regulatory taking. The primary difference between a physical invasion and regulatory taking is the nature of the condemnor's action. Physical invasion refers to the condemnor's physical entry onto or use of private property without permission or compensation. Regulatory taking, on the other hand, involves the condemnor's imposition of regulations that restrict or limit the use of private property, without necessarily physically occupying or invading it.

### Was the Condemnor's Conduct a Physical Invasion?

Physical invasion claims involve condemnor actions that result in a direct and permanent occupation of private property. The essential criterion is the physical presence of the condemnor on the property, which distinguishes physical invasion claims from regulatory takings that limit the use of property without direct occupation.

In *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 435 (1982), the U.S. Supreme Court held that a taking occurs when there has been a permanent physical invasion of property, regardless of the economic impact on the property. The standard applies even when the physical invasion is minimal, as long as it is permanent.

Although the economic impact of a physical invasion need not be severe, attorneys should consider the value of the property interests at stake and the potential amount of just compensation before initiating a claim. This assessment can help determine whether pursuing a physical invasion claim is worthwhile and strategically advantageous for the property owner.

### Does the Condemnor's Conduct Constitute a Regulatory Taking?

Regulatory takings cases can be complex and challenging claims. This section of the practice note will outline three key tests for determining whether a regulation constitutes a taking and provide insights for attorneys handling such cases. Understanding these tests is essential for evaluating the merits of a regulatory takings claim and developing a successful legal strategy.

### Is the Regulation a Taking under *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)?

A regulation can be considered a taking under *Lucas* if it results in the loss of all economically beneficial uses of the land, excepting regulations that are justified under established concepts of property law. In this context, the severity of the economic impact and the validity of the government's purpose play a critical role in determining whether a taking has occurred.

Key elements of the *Lucas* decision include:

- **Total deprivation of economically beneficial use.** The Court held that a regulation may constitute a taking when it deprives the property owner of all economically viable use of the land. In *Lucas*, the South Carolina Coastal Council's regulations prevented the property owner from building homes on the property owner's beachfront lots, rendering the land economically useless.
- **Background principles exception.** The Court recognized an exception to the total deprivation rule if the regulation is justified by background principles of property law, such as nuisance law or preexisting limitations on property rights. If the property owner's intended use of the land would have been prohibited under these principles, the regulation does not constitute a taking.

- **Categorical rule.** The *Lucas* decision established a categorical rule, meaning that when a regulation deprives the property owner of all economically beneficial use, a taking is presumed, and the condemnor must pay just compensation unless the background principles exception applies.

*Is the Regulation a Taking under Nollan v. California Coastal Commission, 483 U.S. 825 (1987), and Dolan v. City of Tigard, 512 U.S. 374 (1994)?*

There are two U.S. Supreme Court cases, *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994), which established standards for determining when land-use exactions imposed by the government constitute a taking under the Fifth Amendment. The holdings in *Nollan* and *Dolan* are collectively referred to as the “Nollan-Dolan test.”

The Nollan-Dolan test addresses whether a regulation amounts to a taking when the government demands an exaction that lacks a nexus with a legitimate state interest or is disproportionate to the project’s impacts. An exaction is a requirement that a developer provides specified land, improvements, payments, or other benefits to the public to offset the project’s impacts. To successfully argue a taking under this test, attorneys must establish that the exaction is unrelated or excessive compared to the project’s actual effects.

Key elements of the Nollan-Dolan test include:

- **Exactions.** The government may demand certain land, improvements, payments, or other benefits from landowners and developers as a means of making up for the impacts of their projects, which are known as exactions. Exactions can take the form of dedications, easements, fees, or other contributions.
- **Nexus requirement (Nollan).** *Nollan* determined there must be an “essential nexus” between the legitimate state interest served by the regulation and the exaction imposed on the landowner. The government cannot impose an exaction that is unrelated to the impact of the proposed project.
- **Rough proportionality requirement (Dolan).** The *Dolan* ruling established the “rough proportionality” test, which mandates that the scale of the exaction be proportional to the expected effects of the development. This examination guarantees the government won’t demand more than what is appropriate and reasonable for the project’s outcomes.
- **Takings analysis.** If the government demands an exaction which lacks an essential nexus to a legitimate

state interest or fails to meet the rough proportionality requirement, the exaction may be viewed as a taking under the Fifth Amendment, entitling the property owner to just compensation.

*Is the Regulation a Taking under Penn Central Transportation Co. v. New York City, 438 U.S. 104 (1978)?*

The *Penn Central* balancing test involves considering three factors to determine if a regulation constitutes a taking:

- **The character of the governmental action.** If the action is a physical invasion rather than a “regulatory invasion,” it is more likely to be considered a taking.
- **Interference with reasonable investment-backed expectations.** A court will assess the extent to which the regulation disrupts the property owner’s legitimate expectations for the use and enjoyment of their property.
- **The economic impact on the affected property owner.** The court will examine the degree to which the regulation affects the property owner’s financial interests.

In regulatory takings cases that do not fit within the categorical rules of *Lucas*, the *Penn Central* test serves as the main framework for assessing whether a regulation amounts to a taking under the Fifth Amendment.

Regulatory takings cases are difficult to win, but having an in-depth understanding of the *Lucas*, *Nollan-Dolan*, and *Penn Central* tests can help attorneys assess the value of a claim and establish an effective legal plan. By carefully analyzing the government’s actions, the impact on the property owner’s interests, and the overall economic consequences, attorneys can navigate the complexities of regulatory takings and advocate effectively for their clients.

## Property Value

### What Was the Value of the Subject Property?

The Fifth Amendment of the U.S. Constitution mandates that when private property is taken for public use, the property owner is entitled to just compensation. However, neither the Constitution nor statutes explicitly define just compensation. Through case law, it has been established that just compensation is the fair market value of the interest taken. See *United States v. Petty Motor Co.*, 327 U.S. 372 (1946). This value does not consider the owner’s particular purposes or the condemnor’s use of the property but is based on general demand for the property.

Condemnors and property owners typically rely on expert witnesses, such as appraisers, to assess fair market value of the property. To arrive at an appropriate valuation, appraisers (and other experts) examine factors such as the property's location, size, zoning, and potential uses, as well as comparable sales in the area.

It is essential to be aware of the legal standards that dictate the amount of just compensation, as well as the kinds of damages that may be considered in the calculation, to be able to effectively advocate for just compensation.

## Alternatives to Inverse Condemnation Action

### What If You Cannot Satisfy the Elements of an Inverse Condemnation Action?

If your analysis leads you to the conclusion that you cannot succeed in an inverse condemnation action, you may be able to pursue alternative legal avenues such as tort claims. However, this comes with a major caveat: tort claims against government entities can be difficult as such claims may be prohibited under the doctrine of sovereign immunity.

Sovereign immunity is the legal principle that protects the government from being sued without its consent. This doctrine can make it challenging for property owners to pursue tort claims, such as trespass, nuisance, or negligence, against the government. While there are some exceptions to federal sovereign immunity (the Federal Tort Claims Act), this practice note does not cover this topic. Similarly, state governments may waive sovereign immunity for tort claims under their state laws. The scope of these waivers varies greatly from state to state.

## Defenses to a Claim of Inverse Condemnation

In inverse condemnation cases, condemnors may assert various defenses to challenge the property owner's claim. Attorneys representing condemnors should be familiar with these defenses, as they can be crucial in defending against inverse condemnation actions. Common defenses include:

- **The property owner failed to meet its burden of proof.** In an inverse condemnation action, the property owner bears the burden of proving that the condemnor has taken or damaged their property for public use without providing just compensation. If the property owner

cannot establish the necessary elements of their claim, the condemnor may assert that the property owner has failed to meet their burden of proof, providing a basis for dismissal of the claim.

- **The project constituted a valid exercise of police power.** The condemnor may argue that the action in question was not a taking but rather a valid exercise of its police power. Police power is the authority of the government to regulate property for the protection of public health, safety, and welfare. If the condemnor can demonstrate that the action was a legitimate exercise of police power, it may not be required to provide just compensation to the property owner, as the action would not constitute a taking.
- **Statute of limitations.** Each jurisdiction has its own statute of limitations for inverse condemnation actions, which sets a time limit within which a property owner must file their claim. If the property owner does not file their inverse condemnation claim within the applicable statute of limitations, the condemnor may assert the statute of limitations as a defense, barring the property owner from pursuing their claim.

In defending against inverse condemnation actions, attorneys representing condemnors should thoroughly analyze the facts and circumstances of each case to identify and assert appropriate defenses. Understanding these defenses and their potential application in a given case can be crucial in successfully defending against inverse condemnation claims and minimizing the condemnor's liability for just compensation.

## Attorney's Fees

### Are Attorney's Fees Recoverable in Inverse Condemnation Actions?

The issue of attorney's fees in inverse condemnation actions is an important consideration for both property owners and condemnors. Under the Fifth Amendment of the U.S. Constitution, just compensation for a taking of private property for public use includes only the value of the property taken and the diminishment in value of the remainder property (or damages) in partial takings cases. However, certain statutes may allow for the recovery of attorney's fees and other litigation costs in specific circumstances.

One such statute is Section 4654(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA), which provides for the recovery of costs associated with litigating governmental-taking cases under

certain conditions. 42 U.S.C. § 4654(a), (c). As explained in *Otay Mesa Property, L.P. v. United States*, 124 Fed. Cl. 141, 146 (2015), a successful litigant in a Fifth Amendment takings case is entitled to recover their reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of the proceeding, pursuant to the URA.

It is important to note that the availability of attorney's fees and other litigation costs in inverse condemnation actions may vary by jurisdiction and the specific circumstances of each case. Attorneys representing property owners and condemnors should carefully review the applicable statutes and case law to determine whether attorney's fees and other costs are recoverable in a given inverse condemnation action.

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### **Jody Harper Alderman, Partner, Alderman Bernstein**

Highly respected in her field by her peers, Jody Harper Alderman has practiced eminent domain law and real estate law for more than two decades. Among her colleagues, Jody is known for her willingness to go above and beyond for a client, often times "giving 150 percent," her law firm partner, Carrie Bernstein, says. "She truly cares. That's why people come back and say 'wow!'"

During law school at the University of Colorado School of Law, it was the takings clause of the U. S. Constitution – where the power of eminent domain stems – that immediately piqued Jody's interest. As such, her University of Colorado Law Review article focused on the Fifth Amendment's takings clause. Upon graduating from law school, she calls it fortuitous that she found a job at Denver law firm Grimshaw & Harring (now called Spencer Fane) where she could focus on the area of law that so interested her. Jody worked at Grimshaw & Harring until 2009, when she and Carrie left to start Alderman Bernstein. As a married mother of three, Jody wanted to nurture her professional ambitions while being fully present for her family.

At Alderman Bernstein, Jody's practice focuses primarily on eminent domain law, and she also does both transactional and litigation work related to real estate. Jody handles contract disputes; quiet title actions and Rule 105 proceedings; Rule 106 appeals of land use decisions; drafting and negotiation of a variety of real estate contracts, leases, easements and other conveyance instruments; and due diligence and closings.

Jody is highly recognized within the law field. She has been selected to Super Lawyers since 2014; she has been designated as one of the Best Lawyers in America for Eminent Domain and Condemnation Law each year since 2007; and she is an AV Preeminent Rated Lawyer by Martindale-Hubbell. Jody has co-chaired the CLE International Annual Eminent Domain Conference since 2015, putting together a two-day continuing education program for eminent domain professionals, including lawyers, appraisers and right-of-way professionals. She has litigated numerous eminent domain, inverse condemnation, and takings cases. She represents clients in every stage of a condemnation case, including negotiating for the acquisition of property and commencing condemnation proceedings, immediate possession hearings, valuation trials, and appeals. She represents private landowners, special districts, school districts, counties, municipal governments, and other public entities in her eminent domain practice. Jody has argued cases to the Colorado Court of Appeals and the Colorado Supreme Court.

Along with her myriad professional accomplishments, Jody is passionate about giving back to her community. She's on the Board of Trustees for Holy Family High School in Broomfield, Colorado, and, since 1999, she's volunteered with the Tennyson Center for Children at Colorado Christian Home, one of the Rocky Mountain region's leading treatment centers and K-12 schools for emotionally and crisis-affected children and youth, particularly those suffering from abuse and neglect. Jody was on the Board of Directors of Tennyson Center from 2007 to 2014, during which time she also served as Chair of the Board for two years, and she returned to the Board in 2016. She has been active on the planning committee for one of Tennyson's annual fundraising events, "Corks For A Cause" Winetasting Event. "It's a really wonderful place and they're doing tremendously important work," Jody says.

### **Joshua Mangiagli, Associate Attorney, Alderman Bernstein**

Josh Mangiagli's practice focuses on eminent domain law, real estate litigation, and real estate transactions. Before joining Alderman Bernstein, Josh worked as a Legal Analyst for the Colorado Secretary of State's Office, and as a Deputy District Attorney in Jefferson County, Colorado.

Josh grew up in Denver, Colorado, and graduated from Denver East High School. After high school, he attended the University of Vermont where he studied Political Science and graduated with honors. After receiving his bachelor's degree, Josh became a middle school social studies teacher in New Orleans, Louisiana, where he taught for four years before deciding he wanted to become an attorney.

Josh returned home and attended law school at the University of Denver, Sturm College of Law, where he was an Associate Editor of the Denver Law Review and a member of the National Trial Team. During law school, Josh also served as a judicial intern for the Colorado Court of Appeals, and as a legal intern for the Colorado Public Defender's Office, and the United States Department of Education. Josh graduated law school with honors and was inducted into the Order of the Coif.

Outside of work, Josh loves being a husband and a father. He enjoys hiking, reading, and playing chess. Josh is also a volunteer coach for a high school mock trial team.

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